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March 26, 2009

***via ECF and Hand Delivery***

UNITED STATES DISTRICT COURT, EDNY

Hon. Arthur D. Spatt, USDJ

200 Federal Plaza

Central Islip, NY 11755

Re: United States v Fenza  
Docket No.: 03 CR 921 (ADS)

Dear Honorable Sir:

As you know, our office represents defendant LOUIS FENZA in the above-referenced matter. Please accept this correspondence as a Response to the Probation Department's "Second Addendum to the Pre-Sentence Report," which was received by our office on March 24, 2009.

Mr. Fenza respectfully continues all objections, requests for redaction and clarification included in his Sentencing Memorandum that were not redacted or corrected by Probations "Second Addendum." Further, Counsel notes that in its paragraph responding to Mr. Fenza's request to redact paragraphs 13 -18 of the PSR, Probation states that Mr. Fenza "admittedly was an associate of the Colombo Family." Mr. Fenza has denied any such involvement to date.

Finally, Mr. Fenza respectfully requests that the Court follow Probation's recommendation regarding the calculation of Criminal History under a "Guidelines approach." In its "Second Addendum," Probation discusses the New York State criminal history information that it previously was not in possession of. However, Probation also notes that the only New York State conviction for which Mr. Fenza would be penalized under the Guidelines, not only was related

to his prior Federal case, but was not calculated as a penalty at the time. Given those two (2) reasons, Probation determined that adding Mr. Fenza's New York State criminal history, and thus recalculating his "guidelines" to that of a Criminal History Category III would "over-represent" the seriousness of his history.

In order to avoid an unduly harsh sentence, it is respectfully requested that Mr. Fenza's Criminal History Category remain at Level II, under any "guidelines" calculation.

As a result of the foregoing, in conjunction with the Sentencing Memorandum previously submitted on behalf of Mr. Fenza, it is respectfully requested that the Court sentence Mr. Fenza to an additional period of home confinement, with such other and further conditions as the Court feels are sufficient, but not greater than necessary.

Respectfully submitted,

*Aaron M. Goldsmith*

cc: AUSA Allen Bode  
**via ECF, email and Hand**